

## PROPOSED AMENDMENTS TO HB 55

1. Page 2, line 19.

Following: "and"

Insert: "and"

2. Page 2, line 20.

Following: "treatment"

Strike: "and"

Insert: "."

3. Page 2, line 21.

Following: line 20

Strike: "(d) for"

Insert: "(3) For"

Following: "offender."

Insert: ", the youth court for a youth under the youth court's jurisdiction and the department for a youth under the department's jurisdiction shall"

Renumber: subsequent subsections

4. Page 2, line 22.

Following: "NOTIFY"

Insert: "in writing the superintendent of"

Following: "ADJUDICATION"

Strike: "1"

Insert: "and"

5. Page 2, line 23.

Following: "PROBATION"

Strike: "AND" through "ADJUDICATED"

Insert: "or parole"

6. Page 2, line 26.

Following: "THE"

Insert: "youth court or"

HEARING

SEN. JUDICIARY

MON., MARCH 9

10 AM

ROOM #303

## 1 HOUSE BILL NO. 55

2 INTRODUCED BY R. HAWK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE YOUTH COURT TO IMPOSE RESTRICTIONS  
5 ON A DELINQUENT YOUTH'S RESIDENCY IF THE YOUTH HAS BEEN ADJUDICATED FOR A SEXUAL  
6 OFFENSE AND HAS BEEN DETERMINED TO BE A LEVEL 3 SEXUAL OFFENDER; AMENDING SECTION  
7 41-5-1513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
8 DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 41-5-1513, MCA, is amended to read:

13 **"41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent  
14 youth, the youth court may enter its judgment making one or more of the following dispositions:

15 (a) any one or more of the dispositions provided in 41-5-1512;

16 (b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for  
17 placement in a state youth correctional facility and recommend to the department that the youth not be released  
18 until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to  
19 placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth  
20 in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

21 (i) the youth committed four or more misdemeanors in the prior 12 months;

22 (ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or  
23 a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional  
24 facility; and

25 (iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state  
26 youth correctional facility.

27 (c) subject to the provisions of subsection (5), require a youth found to be a delinquent youth, as the  
28 result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by  
29 an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth  
30 court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, and is required to register as a sexual offender pursuant to Title 46, chapter 23, part 5, exempt the youth from the duty to register if the court finds that:

(i) the youth has not previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; and

(ii) registration is not necessary for protection of the public and that relief from registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a state youth correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a youth correctional facility. Once a youth is committed to the department for placement in a state youth correctional facility, the department is responsible for determining an appropriate date of release or an alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509; ~~and~~ <sup>AND</sup>

(c) require completion of sexual offender treatment; ~~and~~ .

(d) <sup>For</sup> ~~for~~ a youth designated under this section and 46-23-509 as a level 3 offender;

(i) <sup>IN WRITING THE SUPERINTENDENT OF</sup> ~~NOTIFY~~ THE SCHOOL DISTRICT IN WHICH THE YOUTH IS ENROLLED OF THE ADJUDICATION; <sup>OR PAROLE</sup> ~~ANY TERMS OF~~

~~PROBATION, AND THE FACTS OF THE OFFENSE FOR WHICH THE YOUTH WAS ADJUDICATED, AND PROVIDE A COPY OF THE COURT'S DISPOSITION ORDER TO THE DISTRICT; AND~~

(ii) impose upon the youth those restrictions required for adult offenders by 46-18-255(2), unless the

<sup>YOUTH COURT OR</sup> ~~YOUTH IS APPROVED BY THE DEPARTMENT FOR PLACEMENT IN A HOME, PROGRAM, OR FACILITY FOR DELINQUENT YOUTH.~~

Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court.

However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605,

any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction

1 of the district court and the supervision of the offender is transferred to the department.

2 (3) The court may not order a local government entity to pay for care, treatment, intervention, or  
3 placement. A court may not order a local government entity to pay for evaluation and in-state transportation of  
4 a youth, except as provided in 52-5-109.

5 (4) The court may not order a state government entity to pay for care, treatment, intervention, placement,  
6 or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without  
7 approval from the cost containment review panel.

8 (5) The duration of registration for a youth who is required to register as a sexual or violent offender must  
9 be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration  
10 of registration."

11  
12 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

13  
14 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the  
15 meaning of 1-2-109, to a delinquent youth, as defined in 41-5-103, adjudicated for the commission of a sexual  
16 offense, as defined in 46-23-502, before [the effective date of this act] but for whom no disposition has been  
17 ordered pursuant to 41-5-1513.

18 - END -